



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,485	08/05/2003	Bernd Dulat	16923	6801
23389	7590	11/02/2005	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC			GREGORY, BERNARR E	
400 GARDEN CITY PLAZA			ART UNIT	PAPER NUMBER
SUITE 300				
GARDEN CITY, NY 11530			3662	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/634,485	DULAT ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Bernarr E. Gregory	3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 11 August 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-7 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-3 is/are rejected.  
7)  Claim(s) 4-7 is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) . . . . .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) . . . . .  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date . . . . .  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

Art Unit: 3662

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carr et al ('290) or Laquer et al ('386).

Sole independent claim 1 presents a protective covering for protecting the front portion of a guided missile having "a tip, a seeker head arranged in said tip and window means located in front of said seeker head." It is noted that the claim is not written in conventional claim format having a clearly defined preamble and body; rather it is difficult to know from the text of claim 1 what is actually being claimed and what is merely the context or intended use of the claimed structure. The "tip" is of no real importance in claim 1 in that any missile has a "tip" of some sort. As for the seeker and the window, these are conventional in unmanned, self-guided missiles. Further, it is conventional and necessary that the seeker be at the front of the missile and that it have some sort of window through which it can receive radiation. There is nothing special about the disclosed invention in the instant application that necessitates it being used with a missile using a seeker. Thus, the presence of the seeker and the window is essentially intended use of the actual claimed invention, which is the protective covering. Neither of the applied references, Carr et al ('290) or Laquer et al ('386), shows the claim 1 window or seeker. The one of ordinary skill-in-the-art of missile construction and

of missile guidance would be a person of a high degree of scientific and engineering training at the graduate level. To such a highly-trained person of ordinary skill-in-the-art of missiles, it would have been obvious that the protective covering in each of the applied references, Carr et al ('290) or Laquer et al ('386), could be used to protect any structure or devices that may be at the tip of any sort of missile, including the old and well-known seeker with a window as in claim

1. Please note in each of the applied references that there are two pieces that cover an extent of 180 degrees around the longitudinal axis of the missile as claimed. Further, please note that each of the applied references shows a covering that is "a form-fitting interlocking structure" where the two halves are "interconnected." From the above discussion, it is plain that the further limitations of dependent claim 2 are fully met by either of the applied references as modified hereinabove. As for the further limitations of dependent claim 3, please note at column 1, lines 48-65 of Carr et al ('290) that a pyrotechnic releasing means is used. In Laquer et al ('386), please note that the pyrotechnic feature is even mentioned in the title of the patent.

3. Claims 4-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The examiner-cited prior art herewith is of general interest for showing prior art missile covering caps that are similar to Applicants' invention.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr E. Gregory whose telephone number is (571) 272-6972. The examiner can normally be reached on weekdays from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza, can be reached on (571) 272-6979. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bernarr E. Gregory  
Primary Examiner  
Art Unit 3662